

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Case No. 5:22-cv-0068-BO

YOLANDA IRVING, individually and as the  
natural parent and guardian of J.I., JUWAN  
HARRINGTON, CYDNEEA  
HARRINGTON, KENYA WALTON  
individually and as the natural parent and  
guardian of R.W., ZIYEL WHITLEY,  
DYAMOND WHITLEY, KAMISHA  
WHITLEY, NANETTA GRANT as the natural  
parent and guardian of Z.G., and  
EMANCIPATE NC, INC.,

*Plaintiffs,*

v.

THE CITY OF RALEIGH, Officer OMAR I.  
ABDULLAH, Sergeant WILLIAM ROLFE,  
Officer RISHAR PIERRE MONROE, Officer  
JULIEN DAVID RATTELADE, and Officer  
MEGHAN CAROLINE GAY, Officer DAVID  
MEAD, Officer JESUS ORTIZ, Officer KYLE  
PERRIN, Officer MICHEAL MOLLERE,  
Officer KYLE THOMPSON, Officer  
VINCENT DEBONIS, Officer DANIEL  
TWIDDY, Officer THOMAS WEBB, Officer  
DAVID MCDONALD, Officer DAVID  
GARNER, Chief of Police ESTELLA  
PATTERSON and City Manager MARCHELL  
ADAMS-DAVID, in their official capacities.

*Defendants.*

**PLAINTIFFS' MOTION TO FILE EXHIBITS UNDER SEAL  
PURSUANT TO LOCAL RULE 79.2**

NOW COME Plaintiffs, by and through undersigned counsel and hereby respectfully move the Court to file Exhibits A and B, of their Motion to Strike, under seal. In support of this motion, Plaintiffs state the following:

1. On October 18, 2022, SEU Defendants filed a motion to dismiss Claim 8 (excessive force) pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 129.
2. Plaintiffs filed a response to Defendants' motion to dismiss on November 22, 2022. ECF No. 142.
3. Defendants filed their reply brief on December 6, 2022. ECF No. 145.
4. Defendants' reply brief included deposition testimony from one Plaintiff, Yolanda Irving. *Id.*
5. Because Defendants' motion challenges the substantive claims of Plaintiffs pursuant to 12(b)(6), Plaintiffs filed a motion to strike the deposition testimony.
6. Plaintiffs' brief in support of their motion to strike includes Exhibit A, which discusses some of the excessive force allegations against Defendants and Exhibit B, which is the body camera footage of the warrant execution on Plaintiffs' homes.
7. These exhibits contain still shots and live video footage that was obtained pursuant to a protective order in Wake County Superior Court.
8. Plaintiffs recognize that "common law presumes a right of the public to inspect and copy all judicial records and documents." *Virginia Dep't of State Police v. Washington Post*, 386 F.3d 567, 575 (4th Cir. 2004). And that this "presumption of access, however, can be rebutted if countervailing interests heavily outweigh the public interests in

access,” and “[t]he party seeking to overcome the presumption bears the burden of showing some significant interest that outweighs the presumption.” *Id.* (internal citations omitted).

9. Plaintiffs are filing this motion to comply with a Superior Court order, but do not allege that “some significant interest outweighs the presumption” of public access. *Id.*

WHEREFORE, Plaintiffs respectfully request that this Court (1) enter an order permitting Plaintiffs to file under seal Exhibits A and B of their Motion to Strike, and (2) permitting any party to move to unseal the Exhibits at a future date.

This the 13<sup>th</sup> day of February 2023

Respectfully,



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Served on all parties: Via ECF